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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,124	07/09/2003	Steve Mace	501329.01	2987

7590

04/06/2006

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EXAMINER

NGUYEN, TRINH T

ART UNIT PAPER NUMBER

3644

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/617,124	<b>Applicant(s)</b> MACE ET AL.	
	<b>Examiner</b> Trinh T. Nguyen	<b>Art Unit</b> 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on Amendment dated 3/6/06.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 36-46 is/are pending in the application.
- 4a) Of the above claim(s) 8-26 and 40-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 36-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lizotte (US 6886284) in view of Whalen et al. (US 5834660).

Lizotte discloses an identifiable ammunition cartridge comprising:  
a projectile having a first identification surface; a casing that is coupled to the projectile that includes a second identification surface; and an identifier positioned on at least one of the first and the second identification surfaces wherein the code comprised of a plurality of optically identifiable characters comprising a combination of alphanumeric characters (see Figures 26A,27A,27B).

Lizotte lacks to mention that the code being identically and repetitively applied to the identification surfaces.

Whalen et al. teach the concept of repetitively applying a code onto an identification surfaces of an object. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the teaching of Lizotte so as to use the concept of repetitively applying the code onto an identification surfaces, in a similar manner as taught in Whalen et al., in order to realize the benefits thereof.

For claim 3, Lizotte as modified by Whalen et al. (emphasis on Lizotte) further discloses the second identification surface comprises an external rim portion of the casing.

For claims 5 and 6, it is noted that the code of Lizotte as modified by Whalen et al. (emphasis on Lizotte) can be inherently considered as a code having a code prefix and a code body. Regarding to the limitation that "the code prefix ranges from at least one character to three identical characters, and the code body includes at least four characters", it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the code of Lizotte as modified by Whalen et al. so as to include the code prefix ranges from at least one character to three identical characters and the code body includes at least four characters, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Also, since applicant did not provide a reason and/or showing any criticality as to why the code prefix has to range from at least one character to three identical characters and the code body has to include at least four characters, it is believe that through trial and error during the manufacturing process that one comes up with these ranges of characters to meet the design criteria.

3. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lizotte (US 6886284) in view of Whalen et al. (US 5834660), and further in view of Ramsey (US 1650908).

As described above, Lizotte as modified by Whalen et al. disclose most of the claimed invention except for mentioning that the first identification surface comprises a base portion of the projectile and the second identification surface comprises a web portion of the casing.

Ramsey discloses a similar identifiable ammunition cartridge of a firearm as that of Lizotte as modified by Whalen et al. in which Ramsey teaches the concept of applying codes onto various identification surfaces of an ammunition. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the ammunition of Lizotte as modified by Whalen et al. so as to use the concept of applying codes onto various identification surfaces of an ammunition, in a similar manner as taught in Ramsey, so as to identify parts more efficiently after it has been fired.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lizotte (US 6886284) in view of Whalen et al. (US 5834660), and further in view of Heiny (US 5225628).

As described above, Lizotte as modified by Whalen et al. disclose most of the claimed invention except for mentioning the projectile comprises a mass of generally spherically-shaped pellets and a wad positioned within the casing having a third identification surface and wherein the identifier is positioned on the third identification surface.

Heiny discloses a similar identifiable ammunition cartridge of a firearm as that of Lizotte as modified by Whalen et al. in which Heiny teaches the projectile comprises a

mass of generally spherically-shaped pellets (34) and a wad (40,42) positioned within the casing (32) having a third identification surface and wherein the identifier is positioned on the third identification surface (since Heiny indicates that "Alternately the tactile identification means may be located elsewhere on the round 30" and *The American Heritage Dictionary of the English Language, Fourth Edition* copyright © 2000 by Houghton Mifflin Company (on line version at Dictionary.com) defines the term "elsewhere" as "in or to a different or another place", the Examiner is interpreted that the identifier can be positioned in or to a different or another place in round 30 which can be included either on the casing or the projectile or the wad since all the above components (i.e. the casing, the projectile, and the wad) made up round 30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the ammunition of Lizotte as modified by Whalen et al. so as to include a projectile comprises a mass of generally spherically-shaped pellets and a wad positioned within the casing having a third identification surface and wherein the identifier is positioned on the third identification surface, in a similar manner as taught in Heiny, in order to realize the benefits thereof.

5. Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heiny (US 5225628) in view of Whalen et al. (US 5834660).

Heiny discloses an identifiable ammunition cartridge comprising: a projectile comprising a mass of generally spherically-shaped pellets (34); a casing (32); a wad (40,42) positioned within the casing; and an identification surface positioned on at least one of the projectile, casing, and wad (since Heiny indicates that "Alternately the tactile

identification means may be located elsewhere on the round 30" and *The American Heritage Dictionary of the English Language, Fourth Edition* copyright © 2000 by Houghton Mifflin Company (on line version at Dictionary.com) defines the term "elsewhere" as "in or to a different or another place", the Examiner is interpreted that the identifier can be positioned in or to a different or another place in round 30 which can be included either on the external rim portion of the casing or the projectile or the wad since all the above components (i.e. the casing, the projectile, and the wad) made up round 30). Furthermore, it is noted that the identifier of Heiny can be inherently considered as an identifier including a code comprised of a plurality of optically identifiable characters.

Heiny lacks to mention a code being identically and repetitively applied to the identification surfaces.

Whalen et al. teach the concept of repetitively applying a code onto an identification surfaces of an object. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the teaching of Heiny so as to use the concept of repetitively applying the code onto an identification surfaces, in a similar manner as taught in Whalen et al., in order to realize the benefits thereof.

6. Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heiny (US 5225628) in view of Whalen et al. (US 5834660), and further in view of Lizotte (US 6886284).

As described above, Heiny as modified by Whalen et al. disclose most of the claimed invention except for mentioning the code having a code prefix and a code body

and the code prefix ranges from at least one character to three identical characters, and the code body includes at least four characters”.

Lizotte discloses the concept of applying identifier (such as bar code, matrix, or an alphanumeric code) onto the surfaces of projectile (see Figures 26A,27A,27B). It is noted that the bar code, matrix, or alphanumeric code of Lizotte can be inherently considered as a code having a code prefix and a code body. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the code of Heiny as modified by Whalen et al. so as to include the use of a code having a code prefix and a code body, in a similar manner as taught in Lizotte, in order to realize the benefits thereof.

Regarding to the limitation that “the code prefix ranges from at least one character to three identical characters, and the code body includes at least four characters”, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the code prefix ranges from at least one character to three identical characters and the code body includes at least four characters, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Also, since applicant did not provide a reason and/or showing any criticality as to why the code prefix has to range from at least one character to three identical characters and the code body has to include at least four characters, it is believe that through trial and error during the manufacturing process that one comes up with these ranges of characters to meet the design criteria.



***Response to Arguments***

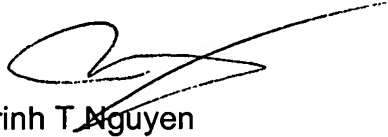
7. Applicant's arguments with respect to claims 1-7, and 36-39 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh T. Nguyen whose telephone number is (571) 272-6906. The examiner can normally be reached on M-F (9:30 A.M to 6:00 P.M).

The examiner's supervisor, Teri Luu can be reached on (571) 272-7045. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Trinh T. Nguyen  
Primary Examiner  
Art Unit 3644

3/23/06